
PUBLIC HEARING AGENDA ITEM – ATTACHMENT 1

TO: Fauquier County Board of Supervisors

FROM: Frederick P.D. Carr, Director
Elizabeth Cook, Chief of Planning

SUBJECT: Brookside Farm Proffer Amendment and Requested Modifications

DATE: March 5, 2002

A. *Brookside Farm (Waterfield) Planned Residential Development (PRD) Rezoning Proffers (Revision Date: March 1, 2002).* The following assessment covers five critical areas: transportation improvements, public facilities (e.g., the middle school, library, fire and rescue, and pedestrian paths), buffering and open space, phasing, and a comparative proffer analysis between Waterfield and the Brookside Farm/Brookside proposals. Other topics will be covered, but not in the same depth due to time constraints.

1. Transportation Improvements. The Department tasked Kellerco with completing Traffic Impact Analysis for the New Baltimore Service District. It included Brookside and Brookside Farm, Vint Hill, Mill Run and other projects in the planning area. Special focus was placed on Route 29, Route 600, Route 602, Route 605, Route 215 and key intersections. The level of service analysis and resulting reports to the Planning Commission listed the improvements recommended for the Brookside and Brookside Farm applications.

In addition, the staff and Planning Commission have indicated to the applicant that:

- The timing and location of all road improvements needed to meet and resolve the traffic impacts of the entire master planned community, and not timed to just one project neighborhood (for example, just Waterfield); and
- A program delivering the Vint Hill Parkway from the planned Vint Hill traffic circle to Riley Road much earlier in the overall development program was critical.

The applicant has made one excellent change. Critical transportation improvements are based the cumulative issuance of occupancy permits for *The Entire Project*, which is defined as including Brookside and Brookside Farm with the exception of the Parkway extension to the Vint Hill traffic circle (Proffer III.B.3). The Proffer Statement, dated 4 December 2001, timed those improvements subject to only Brookside Farm, with some of the improvements coming on line when over 90 percent of both projects were completed (e.g., the parkway connection from Brookside to the Vint Hill traffic circle).

The following summarizes the recommended transportation improvements and their status in the 1 March 2002 Proffer Statement:

- a. **Reconstruct the intersection of Route 676 and the Vint Hill Parkway to VDOT standards.** Since Brookside Farm/Brookside developer intends to build the southern section of the Parkway to Route 676 by 2006, this improvement is essential. While the Parkway road section would be two lanes within 110 feet of right-of-way, the intersection would be built as three lanes with a left turn lane for traffic coming from Route 600.

Proffer Analysis: The applicant will:

- dedicate the r-o-w and for, construct the *base paving and bond or construct 2 lanes* of the parkway from its intersection with Rt. 676 to the southern property line of Brookside Farm, prior to the issuance of the 200th single-family lot occupancy permit for the entire project;
- dedicate the balance of the Vint Hill Parkway r-o-w subject to Brookside Farm's final plat approvals;
- construct to *base paving and bond or construct 2-lanes* of the parkway from the Brookside Farm southern property line to the extension of Lake Drive, prior to the issuance of the 450th single-family lot occupancy permit for the entire project.

Three aspects of the Brookside portion of the Vint Hill proffer are still a problem. First, the applicant states that the connection from the northern property line of the parkway to the Vint Hill traffic circle will be completed prior to the 600th single-family occupancy permit. This timing is unacceptable for the reasons cited in 1.g. The second problem is that there is no offered solution to the Vint Hill buildings, which serve as physical barriers to the connection. The third problem is the term proposed in the revised proffers "*construct to base paving and bond or construct 2-lanes*" **regarding the Brookside Community portion of the Vint Hill Parkway.** This proffer is unacceptable as stated. The County wants the construction of that public road built to state standards to serve the resident population by a specified occupancy permit. Roads in base paving status serve no purpose for the resident traffic. Bonding the improvement, or constructing to base pavement, only delays the improvements essential for distributing traffic, e.g., to Rt. 215 and Rt. 602.

- b. **Pay pro-rata share of a new signal required at Route 600/215.**

Proffer Analysis: The applicant has not proffered this contribution. Recommend that the applicant proffer its pro-rata share, or, as was done in the Vint Hill rezoning, consider proffering for each new residential unit and commercial building a contribution of \$0.50 per square feet of building. That contribution would be paid at the time of occupancy permit issuance for each unit or commercial building, and these funds would be placed into the Transportation Escrow Fund. That fund would be established to assist in the installation of signalization and other identified transportation improvements associated directly with this proposed community.

The County indicated through its Soil Scientist that the Brookside properties ± 400 acres could be developed with approximately ± 175 drainfield lots. An approval of the proposed Comprehensive Plan amendment would extend sewer to Brookside, allowing an additional $199\pm$ lots, which would result in a total of 374 dwellings. Staff recommends that the applicant consider the applying a transportation fee of

\$0.50 per square feet per residential unit at zoning permit for each of the latter referenced 199 lots in Brookside (R-1 zoned properties) within the Brookside Farm (Waterfield) Proffer Statement. If received at the occupancy permit stage, the County would place those revenues in the Transportation Escrow Fund for specified projects not proffered. The same contribution is recommended for Brookside Farm for all units issued zoning/building permits after the 179th unit. For similar reasons cited for transportation, consideration should be given to the application of a \$3,500 per unit contribution to the 199 units for schools. A similar levy was proffered in Waterfield for all homes proceeding after the 179th unit.

The applicant has indicated this cannot be done. The Board of Supervisors needs to refer to the section on comparative proffer analysis of 1998 Waterfield and the entire project.

c. Improve the intersection of Lake Drive and Route 676 to resolve VDOT line of sight and turning movement issues, which have been raised.

Proffer Analysis: The applicant has proffered two choices for this improvement. The connection, including the requisite turn lanes prior to the 600th single-family occupancy permit for the entire project, can occur at either Lake Drive or Lake View Drive. However, staff recommends that this improvement needs to occur at Lake Drive and much earlier in the development process. Almost 6,000 trips community trips would be generated at the time currently proffered.

d. Construct, or contribute fully for, two new left turn lanes on Route 600 at its intersection with Route 676, or contribute to the construction cost of the requisite two left turn lanes for the construction of a new roundabout to be built with public or proffered funds.

Proffer Analysis: The applicant had indicated that this project would be constructed prior to the issuance of the 377th single-family lot zoning permit, along with \$50,000 contribution to the signalization. *Note that the revised proffers have removed the referenced Rt. 676/600 turn lanes, and those improvements are essential.*

e. Assure the County (by having meetings at least once a year with Fauquier Department of Community Development and VDOT staff) that any problems with construction for a complete Vint Hill Parkway between Route 605 and Route 215 are resolved, with Vint Hill and others. The objective here is to ensure that the Vint Hill Parkway shall be delivered by the developers of Brookside Farm and Brookside between 2006 and 2009 from the Route 605/676 intersection to the roundabout in Vint Hill. *Consideration must be given to restricting the number of residential units issued building permits, based in part, on the timing of the Vint Hill Parkway connection from Brookside Farm/Brookside to Route 215.* Further discussions with the applicant, the Board of Supervisors, and VDOT on this topic needs to occur.

Proffer Analysis: The entire project is being presented as a master planned community needing all application elements to be approved in order to work. The county has a similar position and considers it essential that transportation improvements be timed and based on the entire project. *The applicant has changed*

the method of timing and linking transportation improvements from only Brookside Farm dwelling units now to the Entire Project (Brookside Farm and Brookside).

In order for the road improvements to be effectively phased to mitigate project impacts on the local street network, the entire master planned project must be integrated as part of the proffered improvements. Improvements need to be timed and based on cumulative development dwelling unit zoning or occupancy permits issued for the planned community (Brookside and Brookside Farm linkage), or other acceptable and practical measures of performance to be used to ensure the road improvements are in place to meet demand.

As stated and recommended at the Planning Commission, for the project transportation plan to function, the entire Brookside portion of the Vint Hill parkway needs to be completed from Rt. 676 to the traffic circle and the connection made to Rt. 602 early in the development process, and the other improvements identified herein provided or constructed in order for the Brookside Community's traffic not to result in further level of service deterioration of the New Baltimore road network. That transportation improvement package is not met through the revised proffers.

- e. Identify a route for construction traffic, which does not use existing neighborhood streets.**

Proffer Analysis: The applicant has elaborated his intentions, where practical, to have all heavy equipment and construction traffic to access the site from the Vint Hill property, a new Rt. 602 connection or from Rt. 605.

- f. Perform an AM/PM traffic study for the Parkway section between the “new” Route 676/Parkway intersection and Route 605 to establish the roadway width and intersection configuration at Route 676 (Parkway Extension)/605.**

Proffer Analysis: The task identified here needs to be completed in the early development phases, and includes the entire project, surrounding neighborhoods, and the Middle School.

- g. Construct the “missing” section of the Vint Hill Parkway between the end of the Brookside Farm (Waterfield) section built in 2006 and the roundabout at Vint Hill to VDOT standards as a two-lane roadway with three lanes at key intersections.** Note that until this primary connection is achieved, along with a connection to Route 215, the number of residential units issued building permits for Brookside Farm/Brookside needs to be restricted to an agreed maximum.

Proffer Analysis: In the revised proffer, the applicant has not changed the timing of this connection. It is stated that prior to the 600th single family lot occupancy permit of Brookside Farm, the applicant shall construct to base paving and bond or construct the remaining two lanes from Lake Drive to the Vint Hill traffic circle. Construction will be to VDOT standards, and subject to Vint Hill provision of cleared right-of-way.

Brookside Farm and Brookside Linkage. Note that the Planning Commission indicated that the County's stated objective must have the Brookside/Vint Hill Parkway connection made as early as possible from its intersection with Rt. 676 to

the Vint Hill traffic circle. The current proffer regarding this key road is unacceptable; the project needs to be completed earlier than currently proposed. Attention to the linkage of this improvement in conjunction with both Brookside and Brookside Farm is essential.

As currently proffered, the connection improvements are still timed only with the Brookside Farm unit construction. As presented, the connection to the Vint Hill traffic circle does not have to be constructed or bonded until the 600th occupancy permit in Brookside Farm is issued, or potentially 99% of the entire master planned community has been completed. The applicant can also bond the improvement and never follow through with the actual physical connection due to existing Vint Hill buildings lying in the r-o-w alignment. The current proffer does not ensure connection to the Vint Hill traffic circle early in the Brookside Community development schedule, and is unacceptable as presented. Without this connection assured, principal access points become Rt. 676 (Riley Road), Lake Drive (Rt. 1306) and Rt. 793 (Shepherdstown Road).

The latter limitations and the Vint Hill development schedule both present a major impediment for the essential traffic relief provided by the parkway. This hurdle needs resolution. The applicant has had since August to develop a programmed solution, and has yet to succeed.

- h. Develop roadway and intersection design plans for the section of the Parkway (formerly 676) between the new Route 676/Parkway intersection and Route 605 to include the redesign of the Route 605 intersection. Make a pro-rata contribution to the installation of a new signal at Route 605/Vint Hill Parkway extension.**

Proffer Analysis: No proffer regarding this recommendation occurred at the Planning Commission, nor does the revised Proffer Statement. The cost of the traffic study in 2004-2006 and roadway construction/design plans could represent Brookside Farm's and Brookside's pro-rata share with public funds used to rebuild the intersection, with a middle school contribution. The \$0.50 per residential and commercial building square footage transportation contribution described in 1.b could be placed in a County escrow fund to complete Rt. 605 intersectional improvements, as required.

The applicant has indicated that contribution per unit is not acceptable to the partnerships involved.

- i. Install, when warranted, any new signals along the Brookside/Vint Hill Parkway at key Brookside Farm/Brookside intersections.**

Proffer Analysis: No proffer provided for these improvements, and these need to be considered and included in any subsequent Proffer Statement refinements.

- j. Complete Rt. 600 shoulder improvements.** These improvements will need to be developed in more detail with VDOT and the applicant. Any such improvements will be restricted to specified areas and will be further constrained due to the Rt. 600 prescriptive easement limitations (e.g., width). That improvement at a minimum needs to be equivalent to the 1998 Waterfield proffered pavement and shoulder repairs for Route 600 of \$600,000.

Proffer Analysis: No proffer provided. Refer to 1.b regarding the fee contribution per residential unit and commercial square footage. The referenced Transportation Escrow Fund could be used for the Rt. 600 shoulder improvements.

k. With the completion of the Parkway, also construct all other Brookside roadways, including the connection to Route 602.

Proffer Analysis: In the original proffer submittal, this improvement was not included. In the revised proffers, the applicant shall construct or bond the southbound and northbound turn lanes by the 600th occupancy permit for the entire project. The applicant; however, has not presented the timing assurance of the project street connector to Rt. 602. This is another critical connector needed to distribute project traffic.

l. Shepherdstown Road. The revised Concept Development Plan, and the preliminary subdivision identify a project connection to Rt. 793. Originally, the applicant showed a small neighborhood interconnection with Lake Brittle Road.

Proffer Analysis. No proffer provided. The applicant has not proffered the requisite public street improvement for that connection from Brookside Farm to the paved portion of Rt. 793, nor has the applicant identified the turn lane improvements at the Rt. 600/793 intersection that will be required.

Note that Table 1 at the end of this report identifies the list of transportation improvements that were required for the approved Waterfield and their 1998 Dollar values, and the applicants proffered transportation improvements.

2. Public Facilities.

a. Middle School Site. The applicant has proffered a 40-acre middle school site. That proffer includes rough grading to School Board specifications, utilities brought to the property (e.g. water, sewer, natural gas, and communications), and stormwater management ponds sized and constructed to accommodate the school.

Proffer Analysis. The School Board has been asked to review the proposed proffer, since it is different from School Board recommended language. In addition, the applicant has not indicated the timing of the property dedication. Please note that the School Board also will be required to initiate a special exception application for the proposed school for Board of Supervisors approval for this R-1 zoned property. Timing of all aspects for this site is critical for the School Board due to design and construction deadlines for the middle school if this location is selected in lieu of the Vint Hill site.

b. Library Site. The applicant has proffered a 4-acre site in Brookside Farm (Waterfield), and has also identified an unusually shaped 7± site on Brookside located near the intersection of the Vint Hill Parkway/Rt. 676.

Proffer Analysis. The Library Board has indicated the 7 acre site configuration causes problems with providing parking and other design issues. No comment regarding a Brookside Farm location has been offered, since the applicant has not

identified the site location. Barbara Severin, Library Board Chairman, has requested consideration of locating the library with the middle school site, and that would require coordination with School Board plans.

- c. Fire and Rescue Site. The applicant has offered a library or other public use site of approximately 4 acres.

Proffer Analysis. The site is not located on the Concept Development Plan, and the preference of the New Baltimore Council is that the fire and rescue facility not be located in this residential community, but in the Vint Hill project where a site is also proffered. Less noise and operational impacts will result in an area zoned for primarily industrial, office and other associated non-residential uses.

- d. Pedestrian Paths. The applicant has offered a pedestrian only system of sidewalks and trails, with a limited number of “natural trails” not dedicated to the public. The balance of the trails and sidewalks will be located within the rights-of-way, constructed and dedicated pursuant to VDOT standards.

Proffer Analysis. Proffer III.B.5 references a preliminary subdivision plat (revised January 30, 2002); however, the County has the Open Space Plan & Pedestrian Access Sheet of the preliminary plat and the revised date is February 5, 2002. The applicant needs to tell the County, which plat map applies.

- e. Lake Ann. Proffer VII.B offers Lake Ann, including 21 acres for the lake, dam and an adjacent park area shown on the Concept Development Plan as a donation to an appropriate public or non-profit agency prior to the 150th residential occupancy permit for Brookside farm. The applicant offers to repair the dam for Lake Ann prior to that conveyance to a condition where the dam is repaired to its historic level in a manner specified by qualified engineers.

Proffer Analysis. The applicant is certainly trying to integrate public access for the surrounding neighborhoods. Recommend that the any reconstruction be done in accordance with applicable state standards regarding dam design and construction.

3. *Concept Development Plan Buffering and Open Space.* Retaining the 50-foot perimeter Brookfield Farm (Waterfield) project buffer as originally approved is important. That original buffer was located between the proposed lot and the project property line, resulted in a 75-foot setback, as well as homeowner association ownership and maintenance of the 50-foot easement, with no lot owner obstructions. That proposal was widely accepted by the adjoining neighborhoods, including the concept of lots in that location have a minimum lot size of 25,000 square feet, except along Lake Drive where lot shall not be less than 30,000 square feet in size, where they adjoin existing neighborhoods. The 100-foot buffer along Lake Drive has been removed.

Proffer Analysis. The Board of Supervisors and the public need to be aware of a major change here. Proffer I. C. alters the buffer area. The applicant proposes that this buffer easement occur within the individual residential lot area, not between the project perimeter with existing residential neighborhoods and the new lot rear property line. Several issues occur:

- The setback of Brookside homes, along the project perimeter, effectively has been reduced by 25 feet;
- The proffer states that within this buffer easement on individual lots the following can occur: fences, signs, lighting facilities, monuments, flagpoles, driveways, roads, utilities, pedestrian trails, stormwater/BMP, structures and similar facilities. The original 50-foot buffer area outside the existing lot areas was to be owned and maintained by the HOA, free of fences and other obstructions. This change to individual ownership of the open space, and the inherent problems of what an owner can and cannot do with their property, is a major concern. It also allows the County reasonable access for inspection and the right to enforce this covenant.

This change is unacceptable. The buffer as originally established in Waterfield provided additional setback from adjoining neighborhoods, could be used for pedestrian trails, open space linkages within Brookside Farm.

4. *Phasing.* There are two key areas of phasing: transportation and the residential development schedule. In most cases, except as noted in the assessment, the applicant altered the delivery of transportation improvements to the issuance of occupancy permits for “The Entire Project” which includes both Brookside Farm and Brookside. That was an excellent change. The applicant had indicated a phasing program being developed with the WSA using some capacity reserved for Vint Hill initially and also including, at a designated point, the annual issuance of taps. However, no reference to that concept has been offered in the revised proffers.
5. *Comparative Proffer Analysis: Waterfield and the Brookside Farm/Brookside Project Proposal.* Table 1A, 1B and 1C are organized as three elements. Table 1A identifies the transportation package approved in the 1998 Waterfield Rezoning (Total Residential Units: 667) and their 1998 Dollar values, and those proposed as part of the Brookside Farm/Brookside (Total Residential Units: 975) proposal in 2002 Dollars. Table 1B identifies public facilities dedication values and contributions for both applications, and Table 1C provides per unit proffer values less “by-right” units as defined. The Department advises the Board of Supervisors that this table gives the order of magnitude of the proffers offered to mitigate project impacts on fire and rescue, public libraries, parks, schools and transportation. The real implication is that the applicant has not substantively changed the application since the Planning Commission Public Hearing in August of 2001.

The “Entire Project” has not and needs to meet its established transportation improvement, school and other impact requirements, and coordinate and upgrade the pending applications. Since December, the applicant has had significant time to revise the Proffer Statement, Concept Development Plan and other application elements. Detailed staff and Planning Commission reports, identifying deficiencies and providing recommendations, have been provided at discrete stages of the review process.

After the Planning Commission process concluded, staff was optimistic that there were going to be substantive applicant changes to the project, quality control review and document coordination, and numerous discrepancies and errors corrected. The expectation was that the revised materials would be the applicant’s final product proposals for public hearing and Board of Supervisors action. However, not much has changed with the revised official documents and the materials filed on March 1st. The

documents received have major inconsistencies, ordinance and code problems, and lack of details, which are essential and required as part of the Planned Residential Development (PRD). Staff simply is not confident that the applicant is empowered to or can resolve the issues identified here or in the subsequent sections by April 15th.

**Table 1A
Brookside Community and the 1998 Waterfield Comparative Analysis
March 5, 2002**

Transportation Improvement	<u>Proffered & Value Estimated</u>	
	A 1998 Waterfield (667 Dwelling Units)*	B 2002 Brookside (975 Dwelling Units)** (Waterfield & Brookside)
1. Added 2-lanes: From Waterfield to paved Rt. 793	\$435,000	No
2. Route 676/600 Signal	50,000	\$ 50,000
3. Route 676/600 Turn Lanes (6)	259,000	No
4. Route 676/600 Turn Lanes (4)	N/A	Applicant Removed (Included @ Planning Commission level)
5. Vint Hill Parkway Dedication (Offsite: Rt. 676 to Southern Brookside Farm property line- 7± acres)***		73,500
6. Brookside dedication of Vint Hill Parkway r-o-w (14± acres)***	N/A	280,000
7. Route 793/600 Turn Lanes (3)	205,000	No (<i>Refer to Note on Pg. 2</i>)
8. Route 793/600 Signal	50,000	No
9.a Route 676/Lake Drive Turn lanes (2)	205,000	___Applicant Cost?___ Phase 1
OR		
9.b Route 676/Lake View Dr. Turn Lanes (2)	N/A	___Applicant Cost?___
10. Route 600/215 Turn Lanes (3)	205,000	No
11. Route 600/215 Signal	50,000	No Phase 1
12. Route 600 Pavement & Shoulder Improvements	600,000	No

Table 1A (Continued)

13. Construction Contingency & Engineering Design	200,000	No
14. Vint Hill Parkway (Rt. 676 to Southern Brookside Farm Property Line-Offsite Only)	N/A	\$1,060,000
15. Vint Hill Parkway From Brookside Farm to the Vint Hill Traffic Circle-Offsite Only	N/A	270,000****
16. Roadway Design (leg: Rt. 676/Vint Hill Parkway intersection to Rt. 605; and The Rt. 676/605 intersection-Off-site)	N/A	No
17. Pro-Rata Share of Signal at Rt. 676/605 Intersection	N/A	No
18. Rt. 676/605 Intersection Design & Signalization	N/A	No
19. Brookside/Rt. 602 Intersection Turn lanes (2)	N/A	____Applicant Cost?____
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A. Totals:	\$2,259,000	\$1,733,500

* Approved 1998 Waterfield Rezoning and Proffered Improvements; Reflected in 1998 Dollars.

** Brookside Farm & Brookside: Reflected in 2002 Dollars.

*** Based on 2002 Property Assessment.

**** Based on applicant expectation that the Vint Hill EDA and/or VDOT complete the engineering, surveying, geotechnical work, and base construction upon which to pave, as well as remove all structures within the r-o-w. The total construction value is \$900,000.

Note: The Brookside Farm application at the Planning Commission's October 2001 public hearing originally had a street connection with Lake Brittle Road. In the recent February 2002 preliminary plat resubmission, that connection has been eliminated, and the current preliminary subdivision identifies a street interconnection from the Brookside (Vint Hill) Parkway to Route 793. *That connection needs to include the proffer to design and pave, in accordance with VDOT public street requirements, the extension of Shepardstown Road (Rt. 793) to the property line.* Due to the elimination of the Lake Brittle Road connection, other improvements included as part of the approved Waterfield Zoning and Proffer Statement need to be considered at the Rt. 793/600 intersection as outlined in number 7 above.

Table 1B
Brookside Community and the 1998 Waterfield Comparative Analysis
(Other Public Facility Contributions or Dedications)

	A Waterfield*	B Brookside Farm	C <i>Brookside**</i> <i>Community Potential</i>
1. Schools*	\$1,708,000	\$1,477,000	\$2,173,500**
2. Fire & Rescue (\$50/year)*	24,400	21,100	31,050**
3. Library			
a. 2-acre site	40,000		N/A
b. 4-acre site		80,000	
c. 7± acre site			80,760***
4. M.S. School Site (40-acre)	No	400,000	400,000
5. M.S. Site Preparation	No	500,000****	500,000****
6. Transportation (\$0.50 per Residential and Commercial Square Footage)**	No	No	956,500**
B. Totals	\$1,772,400*	\$2,478,100	\$4,141,810**

* After the 179th Dwelling Unit and in **1998 Dollars** [\$3,500/single family unit; \$2,500/townhouse unit for schools and \$50/unit for fire and rescue];

** Not proffered and includes both Brookside Farm (after the 179th unit) and Brookside [374 dwelling units minus 175 potential drainfield units “by-right” =199 units due to the extension of sewer].

*** Shown as a 7 ± acre and potential library site on the preliminary subdivision plat for Brookside, not indicated in the Proffer Statement, nor identified on the Brookside Farm (Waterfield) Concept Development Plan.

**** Proffered up to \$500,000 in site preparation for the Middle School Site.

Table 1C
Brookside Community and the 1998 Waterfield Comparative Analysis

Alternative 1: Approved 1998 Waterfield Rezoning Package

Proffered Waterfield Value for Cash Contributions and/or Land Dedication for Public Facilities and Offsite Transportation Improvements: \$4,031,400

- **Calculation Formula:** Waterfield Minus By-Right Development (667 Dwelling Units minus 179 Dwelling Units= 488 DUs; Total Value= \$4,031,400 divided by 488 Dwelling Units);
- **Proffer Value/Unit:** \$8,261/Unit [based on 667 units minus 179 units=488 units]. Note that this does not include the wastewater treatment contribution, and this calculation is based on **1998 Dollars**.

Alternative 2: The Entire Project (Brookside Farm & Brookside) As Proffered

Proffered Brookside Community Value for Cash Contributions and/or Land Dedication for Public Facilities and Offsite Transportation Improvements (Transportation A + Other Public Facilities B : \$4,211,600.

- Brookside Farm & Brookside Minus “By-Right” Development (Waterfield 601 Dwelling Units minus 179 Dwelling Units= 422 DUs; Brookside 374 Dwelling Units minus 175 Dwelling Units-Drainfield Capacity= 199; Total Community = 621 dwelling units);
- **The Entire Project As Proffered; Proffer Value/Unit:** \$6,782/Unit [based on 975 units minus 354 (179+175) units=621 units], and represents **2002 Dollars**.

Alternative 3: The Entire Project with Proffer Adjustments)

Proffered Brookside Community Value for Cash Contributions and/or Land Dedication for Public Facilities and Offsite Transportation Improvements (Transportation A + Other Public Facilities C): \$5,875,310

- Additional school [\$3,500/unit for 621 homes] and transportation contributions at occupancy permit [\$0.50 square foot for 621 units and commercial square footage] *not agreed to by the applicants*.
- **Potential Proffer Total/621 Units:** \$9,461/Unit [based on 975 units minus 354 units=621 units], and represents **2002 Dollars**.

- B. *Other Comments.* The proposed proffers have significant deficiencies and inconsistencies, that staff may not have identified all areas needing immediate attention. The County Attorney has also raised major issues and will provide his review to the Board of Supervisors in a separate report. The following are additional staff comments regarding the revised proffer statement, the Concept Development Plan, proposed modifications to the Zoning Ordinance, and associated material.

1. Proffer Preamble. Staff finds unacceptable and questions the legality of a statement that the proffers, requested modifications and the concept development plan shall be in accordance with “the Zoning, Subdivision and other development ordinances which are in conformance with state laws and in effect at the time of the adoption of the Revised Proffers.”

Through time there are land development ordinance amendments, which occur due to changes in federal and state law or the comprehensive plan, for health, safety, welfare, better design, and a variety of reasons. As with any development in this County, when Brookside Farm proceeds to construction plan and final plats, those applications would need to comply with the proffer requirements and applicable modifications, be in substantial compliance with the approved concept development plan, *and meet Zoning and Subdivision Ordinance and Fauquier County Code requirements in effect at the time of each application.*

2. Brookside Public Facilities (Proffer Items II. A.1-6).

- The concept development plan does not locate the neighborhood play area, and the soccer field as stated. Those locations must be identified.
- The applicant must identify the 4-acre public use site on the concept development plan.
- The \$3,500 contribution/residential unit after the issuance of the occupancy permit for the 179th single-family unit now is tagged for school or other public facilities. The \$3,500 contribution in the original application was for school facilities only, and the School Board and staff recommend that restricted stipulation continue.

3. Dedication and Construction of the Brookside Parkway (Proffer III.B.3).

- a. The applicant needs to explain the purpose of the statement that the Brookside construction of the parkway to the traffic circle is subject to..... “the uninterrupted availability of WSA public sewer connections for the entire project.” This standard is not relevant and needs to be removed. The delivery of the parkway extension is based on occupancy permits issued.
- b. One of the operative actions needed to make Brookside Farm work as proposed is the delivery of the parkway connection to the referenced traffic circle. According to the applicant, that connection will be made once the Vint Hill EDA delivers an improved r-o-w, free of structures.

It needs to be indicated here that Vint Hill in its **proffers is not required** to construct that connection from the traffic circle to the Brookside Farm property line. In the Vint Hill Rezoning, the EDA did not proffer to complete this connection to the former Waterfield property line, nor complete construction plans and profiles,

surveying, geotechnical work or base construction. The County expected that to be accomplished by the applicant.

The applicant in this section of the proffers stated that WSA sewer connection commitment or Vint Hill fails to provide the “improved r-o-w, then “the applicant shall be relieved of the parkway obligation. *That condition is unacceptable, since delivery of the Vint Hill Parkway connection to Rt. 215 is one of three new and critical major traffic distribution points. The other two are the parkway link to Rt. 605 and the link to Rt. 602. Without assurance of their delivery early in the development process warrants denial of this rezoning package, since the distribution of traffic is critical to adequate and acceptable levels of service at the intersections assessed in the County study.* **Note that the applicant’s transportation analysis also was based on the existence of this connection.**

4. Certain Provisions Applicable to Transportation Proffers (Proffer III.C.3).

- a. The referenced proffer section states that “the entire project may proceed in accordance with the zoning of the property and these revised proffers, upon escrow of cash or cash equivalent, or the posting of a bond or letter of credit, equal to no more than the bid for the cost of the aforesaid improvement.”

This proffer language is both unusual and unacceptable; note that governmental bond requirements are not based on an individual developer’s bid costs. The County has established Bonding Guidelines and Procedures. For example, all development is required to provide surety bonds, cash or letters of credit for approved plans regarding erosion and sediment control and infrastructure based on the standard Unit Price List for Fauquier County. In case a project goes in default, the County has a bond based on industry and VDOT costs and can build the plans to the approved specifications.

- b. Staff is also wary that this provision will be used in lieu of constructing the parkway and other critical improvements. In addition, the applicant states that “such funds may be expended by VDOT, the County, or Brookside for the construction of the transportation improvements identified herein or the Brookside Parkway....or returned to Brookside Farm PRD if not utilized within three (3) years of the establishment of any escrow account, and the Entire Project shall be relieved of such obligation.”

Staff is frustrated in understanding the intent of the proffer language here. Note that surety bonds or letters of credit, for example, are set to assure a developer completes its work subject to approved construction and associated plans. If the applicant cannot, due to bankruptcy and other predicaments, the County is empowered through requisite Developer Agreements, to call the bonds and complete the work through the public bid process. We are not held to any timeline in that case.

5. Water and Sewer.

- a. WSA Contribution (Proffer V.A). The County has not received any copy of an executed agreement with the WSA, nor has the WSA confirmed an agreement with the applicant regarding the \$4,500,000 identified in this proffer.

- b. Alternative Sewer Option (Proffer V.B). The applicant indicates the project has the option “to provide a fully permitted land based wastewater or other approved disposal system as authorized by the Virginia Department of Environmental Quality and or Virginia Department of Health.” Staff advises the applicant that such a proposal would need to follow the requisite County special exception process and demonstrate consistency with ordinance and code requirements.
 - c. Special Note. If the applicant’s Comprehensive Plan Amendment is approved, any lot, which is has not been approved, e.g., construction plans and final plat, must be on public sewer. The Fauquier County Code and Subdivision Ordinance preclude the drainfield option, with very limited exceptions. There may be other legal exceptions, but those must be identified with the County Attorney.
6. Open Space Preservation and or Dedication (VII.C). The language indicated “Some recreational structures may be located in floodplain areas.” The applicant needs to be advised that the Zoning Ordinance’s Floodplain Overlay District, Section 4-405, prohibits structures, fill or storage of material and equipment.
7. Architectural Standards (Proffer VIII). The applicant declared that Brookside Farm shall incorporate appropriate architectural design standards in the HOA documents for the residential and non-residential land development bays; “these standards are set forth in the HOA documents recorded in the Fauquier County land Records on 1/29/02 at Deed Book 936 page 1463 as may be amended from time to time pursuant to Article XIV of said covenants.” *The proposed language is unacceptable, and the applicant must meet this mandatory element ordinance requirement.*
 - The Zoning Ordinance for the PRD District in Section 4-111 states: A Planned Residential District “is intended to be of a scale, size and location which encourages a harmonious environment and promotes a sense of community and place at a pedestrian scale for the residents and visitors of the District, and to that end the development Plan **shall include plans for architectural controls and design standards which will be approved by the Board of Supervisors as part of the rezoning and shall govern the development and construction of improvements on the subject property....**” The staff has asked for these plans since September with no success.
 - Upon research, the applicant’s referenced and recorded covenants have no existing plans for architectural controls or guidelines. It represents the usual HOA declaration of covenants, conditions, restrictions and reservation of easements. It does create the standard Architectural Review and Covenants Committee. However, it needs to be noted that structures constructed by the developer or by a builder, approved by the developer, are excluded from Committee review.
8. Landscape Standards.
 - Landscape Standards (Proffer IX.A-B). Please note that the County’s landscape requirements contained within the Zoning Ordinance must be met, and the covenants and the concept development plan do not have landscape design standards for the residential and non-residential areas as indicated.

- Natural Tree Buffers (Proffer IX.C). The applicant indicates here that it shall retain the existing natural tree buffers between the proposed residential areas and the Existing Residential Subdivisions. *The proffer as stated is meaningless, unless several steps are added: (1) The natural tree buffers cannot be located within individual lots, but must be located in a HOA owned and maintained buffer area; and (2) the buffer area of existing trees must be identified and mapped as part of the preliminary plat phase, along with adequate protection and management controls established and included in the construction plans, pursuant to the Virginia Erosion and Sediment Control Handbook.* Under those circumstances, the existing and natural tree buffer can count toward meeting the project's 15 percent tree canopy coverage requirement.
9. Commercial Area. The original Waterfield application identified an area with 55,000 square feet of retail. The applicant had also shared an illustrative with the Planning Commission for that area near Lake Ashby, which was to be referenced in the proffers. There is no mention of that illustrative, nor mention of commercial uses in the proffers. The applicant needs to explain these omissions, along with the requested modification to change in building heights in the Village Center from 35 to 80 feet.

Additional comments provided by the Planning Division are included as Attachment A; there may be some repetition of comments already presented.

a:bbwatpasepaII

PUBLIC HEARING AGENDA ITEM – ATTACHMENT A

TO: Fauquier County Board of Supervisors

FROM: Frederick P.D. Carr, Director
Elizabeth A. Cook, Chief of Planning

SUBJECT: Brookside Farm Proffer Amendment and Requested Modifications

DATE: March 7, 2002

The following concerns are noted with the revised Brookside Farm Concept Development Plan and Brookside Farm PRD Revised Rezoning Proffers dated March 1, 2002:

1. Concept Development Plan

- The March 1, 2002 proffers state that the CDP is conceptual and defines it to include the following:
 - Sheet 1 – Land Bays
 - Sheet 2 – Open Space / Wetlands and Landscaping
 - Sheet 3 – Utility and BMP Location Plan
 - Sheet 4 – Boundary / Parcel Identification Plan
 - No other illustrations, exhibits or supporting information is binding
- The following required items are not provided with the development plan:
 - A complete Concept Development Plan (deficiencies noted below).
 - **The specific location of all active recreation space is not provided; and the required location of these areas within one-half mile of all dwellings is not clear.**
 - **The passive recreation space is not clearly identified.** It shall, at a minimum, include a network of trails or other ways to allow pedestrian access to recreation areas, safe and convenient access to schools, public facilities and shopping. This network of trails is not shown on the CDP.
 - **No plans for architectural controls and design standards are provided.** These controls and standards must be approved by the Board of Supervisors and when approved they shall govern the development and construction of improvements in the PRD.
- The Concept Development Plan requirements are as follows:
 - The location and functional relationship of all land uses including the types, density, and number of units for each bay. **Number of units per land bay is not provided. Urban cottage lots are not identified. No details are provided**

about the Village Center other than the "Community/Commercial" reference.

- The location of roads, streets, and travelways and proposed classification of streets and right-of-way. **Not all right-of-way widths are provided. Street locations are described as conceptual on the Brookside Farm CDP. No alleys are shown, although the revised waivers and modifications reference alley lots.**
- The general location of open space and ownership. **Ownership of open space not clearly noted on CDP.**
- The type and general location of all required active recreational areas and passive recreation areas to include trails, lakes, and parks. **Location of all recreation facilities not provided. The CDP does not show entire trail network.**
- The proposed phasing and sequence of the development plan for each phase, the residential density, approximate type and number of dwelling units, the percentage of each bay to be occupied by structures and types, floor area ratio and general design standards for all commercial uses. **Phasing, number of dwelling units per land bay or phase, and the percentage of each land bay to be occupied with structures not provided. No information provided regarding nonresidential development.**
- Topographic information, soils information including a map identifying soil types, and limits of floodplain. **Topography and soils information are not provided on CDP.**
- The approximate limits of clearing and grading for each separate tract. **No limits of clearing and grading are provided.**
- A plan showing a landscaping concept, including plans for landscaping, buffering and screening of the PRD from adjacent properties if there are use or visual conflicts. **No landscaping concept is provided. The only landscape information relates to landscaping for the Parkway and subdivision streets. No information is provided regarding the 50-foot buffer between the PRD and the existing residential subdivisions.**
- The original approved concept plan, proffers, and modifications included the following exhibits that are not provided with the proposed revisions:
 - An Illustrative Plan
 - Open Space/Tree Preservation Plan
 - Residential Concepts and Village Center Concepts
 - Major Entry Features
 - Typical Landscaping
 - Streetscape Sections
 - Landscape Guidelines
 - Village Center Recreation Area Perspective
 - Recreation
 - Soils Analysis

2. Proffers

More specific proffer deficiencies noted by staff are:

- The Concept Development Plan (CDP) dates referenced in the first paragraph do not correspond to the March 1, 2002 revised CDP.
- The proffers commit other property owners to certain aspects of the proffers related to roads and other facilities. The March 1, 2002 Preliminary Plat is referenced. However, the acreage of the parcels identified in Attachment C to the proffers does not correspond to the acreage identified as the project area on the Preliminary Plat, which is 967 acres. This number includes 30 acres from Vint Hill and 38 acres near Route 602 that is not included in the preliminary subdivision. Attachment C includes the other property owners committed to the proffers, which includes 30 acres at Vint Hill. This 30 acres represents the Vint Hill school site; the exact location of the 30 acres to be exchanged for the Brookside school site is not clear.
- The proffers indicate that failure to approve all of the applications will be deemed denial of all of them and that the entire project may proceed by-right through final subdivision. If the applications are denied, the Waterfield portion of the project will still be subject to the approved proffers, CDP, and other associated documents. In addition, floodplain crossings, utility location, and other special exception requirements remain.
- The land use section of the proffers now provides that cottage, family or efficiency apartments will be permitted and not added into the density limits. If term "cottages" refers to a dwelling type other than "urban cottages", then it is not clear that they are permitted by the Zoning Ordinance. If "cottages" means "urban cottages" as described in the PRD section of the Zoning Ordinance, then the following items have not been addressed.
 - One urban cottage is permitted per lot.
 - The minimum lot size is 7,500 square feet.
 - Urban cottages are limited to 20% of the total dwellings in the PRD.
 - The Concept Development Plan shall show the residential land bays where urban cottages may be permitted.
 - The PRD provides for limits on size, height, parking, and site plan approval is required.
 - No design standards or lot layouts are provided to illustrate how these lots will be developed or how the proposed waivers will impact the development of these lots.
 - Urban cottages do apply to the project density. The urban cottages were removed from the Waterfield PRD rezoning and the applicant had not included this type of unit prior to the submission of the March 1, 2002 proffers. No analysis or public comment has been made on this new request. Staff would like to note that if urban cottages are approved as proffered by the applicant an additional 120 units could be added to the development beyond the 601 units proffered for the PRD. It should be noted that the applicant's and County's traffic impact analyses did not account for these additional units.

- The density on "the Entire Project" or ± 1060 acres shall not exceed an average of 1 single-family dwelling unit per gross acre in the Entire Project. **The applicant's submissions have not indicated that 1060 units would be constructed and staff is concerned about the location of these additional units. The overall project includes 975 lots, so there is an 85-lot surplus.**
- The applicant proposes to revise the proffers related to the 50-foot buffer between the Brookside Farm residential lots and the existing subdivision lots. As now proposed, the buffer would be a portion of the PRD lots and it may contain fences, signs, lighting facilities, monuments, flagpoles, driveways, roads, utilities, pedestrian trails, SWM/BMP, structures, and similar facilities. No other buildings or structures would be permitted in the 50-foot buffer. The approved CDP provided for a 100-foot buffer along the lots at Lake Drive. The 100-foot buffer has been reduced to 50 feet. **These changes to the approved buffer represent a significant change.**
- The introduction paragraph to the development phasing section states that the PRD and the Entire Project shall be developed in accordance with these proffers and schedules set forth hereafter. **It is not clear whether it is the applicant's intention to link all aspects of the PRD proffers to the Entire Project including modifications, waivers, etc.**
- The Development Phasing section of the proffers deletes references to a mix of residential and recreational uses with support commercial and/or institutional, public and private uses in each phase of development. **It appears that all references to commercial uses are deleted including square footage limitations. During the Planning Commission review, the applicant presented an illustrative plan for the Village Center, which identified non-residential buildings and suggested a design for the Center. This illustrative plan has not been referenced with the revised proffers.**
- All proffers that reference contributions specify single-family permits, where the original proffers did not specify the type of use. Therefore, the length of time to reach these triggers would be extended.
- The applicant has proffered certain recreational facilities and these facilities, according to the proffers, are to be as generally depicted on the Concept Development Plan. **These recreational facilities are not shown on the CDP.** They include the following items:
 - Prior to the 50th single-family lot occupancy permit for land bays E & F a neighborhood play area will be constructed.
 - Prior to the 100th single-family lot occupancy permit one soccer field.
- The proffered conditions rename the Vint Hill Parkway to the Brookside Parkway from Route 215 down Route 652 to Route 605. The record plats, with a portion of the Parkway located through Vint Hill, have named this roadway Vint Hill Parkway. There is an existing Brookside Court in the County and except for a case-by-case basis, new street names should not duplicate existing street names pursuant to the Subdivision Ordinance and the Building Code.
- The proffers indicate that prior to the issuance of the 600th single-family occupancy permit for the PRD, the applicant will construct to base paving and bond or construct the remaining construction of two lanes of the Brookside Parkway (Vint Hill Parkway) from the Vint Hill Traffic Circle to the intersection with Lake Drive. **As**

noted in several Planning Commission reports, it is not clear that the applicant will choose to build the final two dwelling units if such a substantial financial commitment is triggered. This proffer does not reference the Entire Project, as do several of the other transportation related proffers.

- Further, this proffer is contingent upon the prior provision to the applicant at no cost of improved right-of-way on Vint Hill EDA property by the EDA. **It is not clear what the applicant means by improved right-of-way. Again, this is a new addition to the revised proffers**
- In addition, this construction proffer to the Vint Hill Traffic Circle is subject to uninterrupted availability of WSA public sewer connections for the Entire Project. If these conditions are not met, the applicant is relieved of the obligation.
- The applicant has proffered to construct and dedicate to VDOT a pedestrian only system of sidewalks and trails. It would be more appropriate for this dedication to be to public use or the County. If the proposed trails are out of the right-of-way they may not be accepted by VDOT. **This proffer references the Preliminary Plat, which is not a document referenced as binding.**
- If funds placed in the transportation related escrow account are not utilized within three years of establishing the escrow account the funds will be returned and the Entire Project will be relieved of the obligation.
- **The proffers provide that if the Comprehensive Plan is amended to include the project in the Phase I sewer a portion of the Brookside development lots shall not have a mandatory sewer hookup requirement. These are proffered conditions for the Brookside Farm PRD not the Brookside R-1 zoned portion of this overall development.**
- The approved proffers for Waterfield provide for the preservation of all wetlands and 100-year floodplain except for public utilities, roadways, recreation trails, and related facilities. **Now the revisions provide for preservation or mitigation.**
- A mix of active and passive recreational opportunities and facilities shall be provided with each phase of development. The revised proffers now indicate that these facilities include any facilities as permitted by the Zoning Ordinance by right, special permit, or special exception. **The approved proffers indicate that the facilities may be permitted. It is not clear whether the applicant is proffering to eliminate the additional approval processes. The Zoning Ordinance requirements for special permits or special exceptions remain in force.**
- **The proffers remove the tree preservation aspect of the development. As currently proffered, the open space and tree preservation areas were to be incorporated into a public open space system. This public open space system is removed with the revisions.**
- The proffers do not clearly provide access to the recreational facilities in Brookside Farm PRD by the balance of the Brookside project. **The shared access of the entire project is one of the applicant's justifications for the companion open space reduction special exception request.**
- The proffers provide for the location of some recreational structures in the floodplain areas. **The special exception for floodplain uses did not include a request for recreational structures in the floodplain.**

- The proffers reference architectural design standards in the HOA documents. These documents, not supplied by the applicant, do not provide any design details. Further, the proffers indicate that the appropriateness of the design shall be solely the purview of Brookside Farm PRD. As noted above, the PRD section of the Zoning Ordinance specifically requires plans for architectural controls and design standards be approved by the Board of Supervisors. These controls and standards are to govern the development and construction of improvements on the PRD. The original proffers provided that the applicant shall submit detailed architectural design standards, subsequent site plans, and subdivision plats for County review and comment.
- The landscape standards are also to be incorporated into these HOA documents. The only landscaping information provided with the revised CDP is associated with the Parkway and subdivision streets and that is noted to be illustrative. The applicants have indicated that the Landscape section of the Zoning Ordinance should not apply to the PRD, as it was not in place with the original PRD zoning.
- The original proffers provided an adjustment to the proffered contributions based on the Consumer Price Index (CPI-U), which included a cap of 6% per year, non-compounded. The revised proffers lower this maximum increase to 3% per year. In addition, the revised proffer provides for a greater time period before the CPI-U is applicable. **The impact of the revisions is to reduce the increase in proffered cash contributions over time to adjust for inflation.**
- Waivers, Modifications, and Exceptions:
 - The proposed revisions delete the reference to land bays, which help to clarify the requests.
 - **Generally no new justification is given for the proposed reduced standards.**
 - **The revisions delete all references to the CDP and graphic representations, which are included with the approved modifications. These original graphic depictions served to help justify the proposed waivers.**
 - It is not clear how cottages, efficiency and family apartments would be designed with the proposed waivers. The applicant makes no reference to these units.
 - The proposed revisions request a greater reduction in the minimum lot with for traditional and village/alley lots. There are no illustrations of the proposed design. No information has been provided regarding the proposed alley lots and no alleys have been identified on the CDP. **The applicant is seeking greater reductions with less justification than the approved waivers.**
 - An additional reductions in the minimum front yard setback for traditional and village from 40 to 30. The minimum front yard setback would not be less than 10 feet from the right-of-way rather than the sidewalk as requested with the original waivers. No illustrations are provided. **Again, the applicant is seeking greater reductions with less justification than the approved waivers.**
 - Some side yard setbacks are proposed to be further reduced. Again, no justification or design graphics are provided to illustrate these layouts.
 - **The maximum building height for the Village Center was increased to 50 feet with the original waivers, now the applicant is asked for a maximum height of 80 feet for the entire PRD. No justification is given for this proposed change. With the deletion of proffers related to the commercial**

space, it is not clear what the applicant proposes that will require a height of 80 feet.

- There is still a reference to townhouses, which are deleted with this application.
- The applicant is requesting the use of pipestem lots, which are only allowed with cluster developments. The applicant has not provided a complete justification for this request. The rationale is that pipestem lots allow for more efficient use of land and preservation of wetlands and natural vegetated areas by more creative lot layout.
- **A new waiver request was added with the March 1, 2002 proffers for additional subdivision entrance signage. This proposed waiver clearly exceeds the current Zoning Ordinance requirements. The request is for 5 subdivision entrance signs up to 25 signs for sections of the project. The 5 signs would contain up to 24 square feet each and the 25 signs up to 12 square feet. The current Zoning Ordinance standards allow one sign at each entrance not to exceed a total of 24 square feet.**

Overall, the applicant is offering less detail to clarify how the project will develop, proffering to provide fewer recreational areas and facilities, deleting key components of planned residential development districts, and requesting waivers for increased reductions of the Zoning Ordinance bulk regulations with less justification and no design graphics illustrate how the architectural and landscaping plans will meet the PRD requirements. It is not clearly demonstrated how this PRD will meet the intention for the development to be of a scale, size, and location which encourages a harmonious environment and promotes a sense of community and place at the pedestrian scale for residents and visitors. As proposed, the development is not clearly different from a typical suburban subdivision.

The modifications requested and the Proffer Amendment package in their current form both warrant denial.